

107TH CONGRESS  
1ST SESSION

# S. 1358

To revise Federal building energy efficiency performance standards, to establish the Office of Federal Energy Productivity within the Department of Energy, to amend Federal Energy Management Program requirements under the National Energy Conservation Policy Act, to enact into law certain requirements of Executive Order No. 13123, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2001

Mr. BAYH introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To revise Federal building energy efficiency performance standards, to establish the Office of Federal Energy Productivity within the Department of Energy, to amend Federal Energy Management Program requirements under the National Energy Conservation Policy Act, to enact into law certain requirements of Executive Order No. 13123, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Federal Facility En-  
3 ergy Management Act of 2001”.

4 **SEC. 2. PURPOSE.**

5       The purpose of this Act is to increase the energy effi-  
6 ciency of facilities of Federal agencies by—

7           (1) establishing the Office of Federal Energy  
8       Productivity within the Department of Energy to  
9       provide for interagency coordination in evaluating  
10      opportunities for, and implementation of, energy ef-  
11      ficiency measures and programs;

12           (2) updating energy reduction goals;

13           (3) expanding Federal agency resources for en-  
14      ergy measurement and improving accountability by  
15      providing for—

16                   (A) energy metering and monitoring;

17                   (B) transparent energy spending; and

18                   (C) rigorous interagency and congressional  
19      oversight;

20           (4) promoting the acquisition and operation of  
21      more efficient facilities by extending the authority  
22      and eligibility of a Federal agency to enter into en-  
23      ergy savings performance contracts; and

24           (5) establishing a reliable and steady source of  
25      funding for permanent energy capital improvement

1       available to supplement appropriations for use by  
 2       Federal agencies and the Architect of the Capitol—  
 3               (A) to fund energy efficiency projects; and  
 4               (B) to leverage funding for energy savings  
 5       performance contracts.

6   **SEC. 3. REVISED FEDERAL BUILDING ENERGY EFFICIENCY**  
 7               **PERFORMANCE STANDARDS.**

8       Section 305 of the Energy Conservation and Produc-  
 9   tion Act (42 U.S.C. 6834) is amended—

10           (1) in subsection (a)—

11               (A) in paragraph (2)(A), by striking  
 12               “CABO Model Energy Code, 1992” and insert-  
 13               ing “the International Residential Code”; and

14               (B) by adding at the end the following:

15               “(3) REVISED FEDERAL BUILDING ENERGY EF-  
 16   FICIENCY PERFORMANCE STANDARDS.—

17               “(A) IN GENERAL.—Not later than 1 year  
 18               after the date of enactment of this paragraph,  
 19               the Secretary of Energy shall establish, by rule,  
 20               revised Federal building energy efficiency per-  
 21               formance standards that require that—

22                       “(i) new commercial buildings and  
 23                       multifamily high rise residential buildings  
 24                       be constructed so as—

1 “(I) to have, in the aggregate, a  
2 level of energy efficiency that is 10  
3 percent greater than the level of en-  
4 ergy efficiency required under the  
5 standards established under para-  
6 graph (1); and

7 “(II) to meet or exceed the most  
8 recent ASHRAE Standard 90.1, ap-  
9 proved by the American Society of  
10 Heating, Refrigerating and Air-Cond-  
11 itioning Engineers, Inc.;

12 “(ii) new residential buildings (other  
13 than those described in clause (i)) be con-  
14 structed so as to exceed the level of energy  
15 efficiency required under the most recent  
16 version of the International Residential  
17 Code by not less than 10 percent.

18 “(B) ADDITIONAL REVISIONS.—Not later  
19 than 180 days after the date of approval of  
20 amendments to ASHRAE Standard 90.1 or the  
21 International Residential Code, the Secretary of  
22 Energy shall determine, based on the cost-effec-  
23 tiveness of the requirements under the amend-  
24 ments, whether the revised standards estab-

lished under this paragraph should be updated  
to reflect the amendments.

“(C) COMPUTER SOFTWARE.—The Secretary of Energy shall develop computer software to facilitate compliance with the revised standards established under this paragraph.

“(D) STATEMENT ON COMPLIANCE OF NEW BUILDINGS.—In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—

“(i) a list of all new Federal buildings of the Federal agency; and

“(ii) a statement concerning whether the Federal buildings meet or exceed the revised standards established under this paragraph, including a metering and commissioning component that is in compliance with the measurement and verification protocols of the Department of Energy.

“(E) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appro-

1           priated such sums as are necessary to carry out  
 2           this paragraph and to implement the revised  
 3           standards established under this paragraph.”;  
 4           and

5           (2) by adding at the end the following:

6           “(e) ENERGY LABELING PROGRAM.—The Secretary  
 7 of Energy, in cooperation with the Administrator of the  
 8 Environmental Protection Agency, shall develop an energy  
 9 labeling program for new Federal buildings that exceed  
 10 the revised standards established under subsection (a)(3)  
 11 by 15 percent or more.

12          “(f) COLLECTION OF INTERVAL SOLAR DATA.—The  
 13 Secretary of Commerce shall collect interval solar data at  
 14 all weather stations under the jurisdiction of the Secretary  
 15 of Commerce for use in determining building energy effi-  
 16 ciency performance under this section.”.

17 **SEC. 4. OFFICE OF FEDERAL ENERGY PRODUCTIVITY OF**  
 18 **THE DEPARTMENT OF ENERGY.**

19          (a) IN GENERAL.—Title II of the Department of En-  
 20 ergy Organization Act is amended by inserting after sec-  
 21 tion 211 (42 U.S.C. 7141) the following:

22 **“SEC. 212. OFFICE OF FEDERAL ENERGY PRODUCTIVITY.**

23          “(a) ESTABLISHMENT.—There is established, within  
 24 the Department, the Office of Federal Energy Produc-  
 25 tivity (referred to in this section as the ‘Office’).

1       “(b) ASSISTANT SECRETARY FOR FEDERAL ENERGY  
2 PRODUCTIVITY.—

3               “(1) IN GENERAL.—The Office shall be headed  
4 by the Assistant Secretary for Federal Energy Pro-  
5 ductivity (referred to in this section as the ‘Assistant  
6 Secretary’), who shall report directly to the Sec-  
7 retary.

8               “(2) DUTIES.—The Assistant Secretary shall—

9                       “(A) ensure compliance with the energy  
10 use and expenditure requirements applicable to  
11 Federal agencies under Federal law (including  
12 Executive orders);

13                      “(B) perform all duties assigned to the Di-  
14 rector of the Federal Energy Management Pro-  
15 gram of the Department of Energy, including  
16 duties assigned to the Director by the President  
17 by any Executive order in effect on the date of  
18 enactment of this subparagraph;

19                      “(C) coordinate implementation of energy  
20 efficiency requirements by Federal agencies  
21 using staff of the Office that have expertise in  
22 the mission of each Federal agency;

23                      “(D) coordinate compilation of, and review,  
24 energy-use reports required to be submitted by

1 Federal agencies under this Act and other Fed-  
2 eral law (including Executive orders);

3 “(E) serve as a liaison from the Federal  
4 Government to the private sector to identify op-  
5 portunities and obstacles to expanded private  
6 and Federal markets for energy management  
7 technologies, energy efficiency technologies, and  
8 renewable energy technologies;

9 “(F) operate the Federal Energy Bank es-  
10 tablished by section 552 of the National Energy  
11 Conservation Policy Act;

12 “(G)(i) not later than 120 days after the  
13 date of enactment of this subparagraph, issue  
14 such guidelines for Federal agency energy pre-  
15 paredness and energy emergency response as  
16 the Secretary determines to be appropriate; and

17 “(ii) in accordance with paragraph (3), re-  
18 ceive, review, and report on plans submitted by  
19 Federal agencies in conformance with the  
20 guidelines; and

21 “(H)(i) not later than 180 days after the  
22 date on which the first Assistant Secretary  
23 takes office, identify and submit to Congress a  
24 list of the principal conservation officers under  
25 section 656; and



1 “(ii) annually update the list.

2 “(3) ENERGY PREPAREDNESS AND ENERGY  
3 EMERGENCY RESPONSE PLANS.—

4 “(A) SUBMISSION BY FEDERAL AGEN-  
5 CIES.—The head of each Federal agency shall  
6 submit to the Assistant Secretary annually (or  
7 at such intervals as the Secretary determines to  
8 be appropriate) an energy preparedness and en-  
9 ergy emergency response plan for the Federal  
10 agency that is in conformance with the guide-  
11 lines issued under paragraph (2)(G)(i).

12 “(B) REVIEW BY ASSISTANT SEC-  
13 RETARY.—The Assistant Secretary shall review  
14 each plan submitted under subparagraph (A)  
15 for effectiveness and feasibility.

16 “(C) REPORT TO CONGRESS.—The Assist-  
17 ant Secretary shall submit to the President and  
18 Congress an annual report on the ability of  
19 each Federal agency—

20 “(i) to reduce energy use on an emer-  
21 gency basis; and

22 “(ii) to perform the mission of the  
23 Federal agency during such a period of  
24 emergency reduced energy use.

25 “(c) LIAISON TO DEPARTMENT OF DEFENSE.—

1           “(1) IN GENERAL.—Not later than 180 days  
2       after the date of enactment of this paragraph, the  
3       Assistant Secretary shall appoint an individual em-  
4       ployed by the Office to serve as a liaison to the De-  
5       partment of Defense.

6           “(2) DUTIES.—The individual appointed under  
7       paragraph (1) shall coordinate energy efficiency  
8       measures, and energy efficiency reporting to the  
9       President and Congress, into the operation of the  
10      Department of Defense without compromising na-  
11      tional security or the defense mission of the Depart-  
12      ment of Defense.

13          “(3) SECURITY CLEARANCE.—The individual  
14      appointed under paragraph (1) shall have appro-  
15      priate security clearance.

16          “(d) REPORT TO CONGRESS.—The Secretary, acting  
17      through the Office, shall submit to Congress an annual  
18      report that—

19           “(1) describes the energy expenditures, invest-  
20      ments, and savings of each Federal agency;

21           “(2) describes the obstacles to meeting the en-  
22      ergy efficiency requirements under Federal law (in-  
23      cluding Executive orders) that are faced by each  
24      Federal agency; and

1 “(3) includes an accounting of energy-con-  
2 suming products procured by each Federal agency  
3 that indicates—

4 “(A) which energy-consuming products  
5 procured by the Federal agency during the pre-  
6 ceding year were Energy Star products or  
7 FEMP designated products (as those terms are  
8 defined in section 551(a) of the National En-  
9 ergy Conservation Policy Act); and

10 “(B) which energy-consuming products  
11 procured by the Federal agency during the pre-  
12 ceding year were neither Energy Star products  
13 nor FEMP designated products.

14 “(e) AUDITS OF FEDERAL ENERGY MANAGEMENT  
15 PROGRAMS.—

16 “(1) IN GENERAL.—The Assistant Secretary  
17 may require the Inspector General of each Federal  
18 agency to conduct audits of the energy management  
19 programs of the Federal agency every 3 years.

20 “(2) GUIDELINES.—The Assistant Secretary  
21 shall—

22 “(A) issue guidelines for the conduct of au-  
23 dits described in paragraph (1); and

24 “(B) conduct training for Inspectors Gen-  
25 eral on use of the guidelines.”.

1 (b) LIAISON FROM DEPARTMENT OF DEFENSE.—

2 The Secretary of Defense shall—

3 (1) establish as a senior level position within  
4 the Department of Defense the position of energy  
5 management liaison; and

6 (2) assign to the official appointed to that posi-  
7 tion by the Secretary of Defense the duty to coordi-  
8 nate with appropriate officials of the Department of  
9 Defense and appropriate officials of the Department  
10 of Energy concerning energy use and expenditure re-  
11 quirements applicable to the Department of Defense  
12 under Federal law (including Executive orders).

13 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

14 The table of contents in the first section of the Depart-  
15 ment of Energy Organization Act (42 U.S.C. 7101 note)  
16 is amended —

17 (1) in the item relating to section 209, by strik-  
18 ing “Section” and inserting “Sec.”;

19 (2) by inserting after the item relating to sec-  
20 tion 211 the following:

“Sec. 212. Office of Federal Energy Productivity.”;

21 and

22 (3) in the items relating to each of sections 213  
23 through 216, by inserting “Sec.” before the section  
24 designation.

1 **SEC. 5. ENERGY REDUCTION GOALS.**

2 (a) IN GENERAL.—Section 543 of the National En-  
 3 ergy Conservation Policy Act (42 U.S.C. 8253) is  
 4 amended—

5 (1) in subsection (a)—

6 (A) by striking paragraph (1) and insert-  
 7 ing the following:

8 “(1) IN GENERAL.—Subject to paragraph (2),  
 9 each agency shall apply energy conservation meas-  
 10 ures to, and shall improve the design for the con-  
 11 struction of, the Federal buildings of the agency (in-  
 12 cluding each industrial or laboratory facility) so that  
 13 the energy consumption per gross square foot of the  
 14 Federal buildings of the agency in calendar years  
 15 2002 through 2011 is reduced, as compared with the  
 16 energy consumption per gross square foot of the  
 17 Federal buildings of the agency in calendar year  
 18 2000, by the percentage specified in the following  
 19 table:

<b>“Calendar year:</b>	<b>Percentage reduction:</b>
2002 .....	2
2003 .....	4
2004 .....	6
2005 .....	8
2006 .....	10
2007 .....	12
2008 .....	14
2009 .....	16
2010 .....	18
2011 .....	20.”;

1 (B) by striking “(2) An” and inserting the  
2 following:

3 “(2) EXCLUSION OF CERTAIN FEDERAL BUILD-  
4 INGS.—An”; and

5 (C) by adding at the end the following:

6 “(3) REVIEW AND REVISION OF ENERGY PER-  
7 FORMANCE REQUIREMENT.—Not later than Decem-  
8 ber 31, 2010, the Secretary shall—

9 “(A) review the results of the implementa-  
10 tion of the energy performance requirement es-  
11 tablished under paragraph (1); and

12 “(B) submit to Congress recommendations  
13 concerning energy performance requirements  
14 for calendar years 2012 through 2021.”; and  
15 (2) in subsection (c)—

16 (A) by striking paragraph (1) and insert-  
17 ing the following:

18 “(1) IN GENERAL.—

19 “(A) EXCLUSIONS.—An agency may ex-  
20 clude, from the energy performance require-  
21 ment for a calendar year established under sub-  
22 section (a) and the energy management require-  
23 ment established under subsection (b), any Fed-  
24 eral building or collection of Federal buildings,

1           and the associated energy consumption and  
2           gross square footage, if—

3                   “(i) the head of the agency finds that  
4                   compliance with those requirements would  
5                   be impracticable; and

6                   “(ii) the agency has—

7                           “(I) completed and submitted all  
8                           federally required energy management  
9                           reports;

10                           “(II) achieved compliance with  
11                           the energy efficiency requirements  
12                           of—

13                                   “(aa) this Act;

14                                   “(bb) subtitle F of title I of  
15                                   the Energy Policy Act of 1992  
16                                   (42 U.S.C. 8262 et seq.);

17                                   “(cc) Executive orders; and

18                                   “(dd) other Federal law; and

19                           “(III) implemented all prac-  
20                           ticable, cost-effective, life-cycle  
21                           projects with respect to the Federal  
22                           building or collection of Federal build-  
23                           ings to be excluded.

1           “(B) FINDING OF IMPRACTICABILITY.—A  
 2           finding of impracticability under subparagraph  
 3           (A)(i) shall be based on—

4                   “(i) the energy intensiveness of activi-  
 5                   ties carried out in the Federal building or  
 6                   collection of Federal buildings; or

7                   “(ii) the fact that the Federal build-  
 8                   ing or collection of Federal buildings is  
 9                   used in the performance of a national secu-  
 10                  rity function.”;

11           (B) in paragraph (2)—

12                   (i) by striking “(2) Each agency” and  
 13                   inserting the following:

14           “(2) REVIEW BY SECRETARY.—Each agency”;

15           and

16                   (ii) in the second sentence—

17                   (I) by striking “impracticability  
 18                   standards” and inserting “standards  
 19                   for exclusion”; and

20                   (II) by striking “a finding of im-  
 21                   practicability” and inserting “the ex-  
 22                   clusion”; and

23           (C) by adding at the end the following:

24           “(3) CRITERIA.—Not later than 180 days after  
 25           the date of enactment of this paragraph, the Sec-



1       retary shall issue guidelines that establish criteria  
2       for exclusions under paragraph (1).”.

3       (b) REPORTS.—Section 548(b) of the National En-  
4       ergy Conservation Policy Act (42 U.S.C. 8258(b)) is  
5       amended—

6               (1) in the subsection heading, by inserting  
7       “THE PRESIDENT AND” before “CONGRESS”; and

8               (2) by inserting “President and” before “Con-  
9       gress”.

10       (c) CONFORMING AMENDMENT.—Section 550(d) of  
11       the National Energy Conservation Policy Act (42 U.S.C.  
12       8258b(d)) is amended in the second sentence by striking  
13       “the 20 percent reduction goal established under section  
14       543(a) of the National Energy Conservation Policy Act  
15       (42 U.S.C. 8253(a)).” and inserting “each of the energy  
16       reduction goals established under section 543(a).”.

17       **SEC. 6. ENERGY USE MEASUREMENT AND ACCOUNT-**  
18       **ABILITY.**

19       (a) IN GENERAL.—Section 543 of the National En-  
20       ergy Conservation Policy Act (42 U.S.C. 8253) is amend-  
21       ed by adding at the end the following:

22       “(e) METERING OF ENERGY USE.—

23               “(1) IN GENERAL.—Subject to paragraph (2),  
24       each agency shall meter or submeter the energy use

1 in each Federal building, industrial process, and en-  
2 ergy-using structure of the agency.

3 “(2) GUIDELINES.—

4 “(A) IN GENERAL.—Not later than 180  
5 days after the date of enactment of this sub-  
6 section, the Secretary shall issue guidelines con-  
7 cerning the extent of the metering and sub-  
8 metering required under paragraph (1).

9 “(B) REQUIREMENTS FOR GUIDELINES.—

10 The guidelines shall—

11 “(i) take into consideration—

12 “(I) the cost of metering and  
13 submetering and the reduced cost of  
14 operation and maintenance expected  
15 to result from metering and sub-  
16 metering;

17 “(II) the extent to which meter-  
18 ing and submetering are expected to  
19 result in—

20 “(aa) increased potential for  
21 energy management;

22 “(bb) increased potential for  
23 energy savings and energy effi-  
24 ciency improvement; and

1 “(cc) cost and energy sav-  
 2 ings due to utility contract aggre-  
 3 gation; and

4 “(III) the measurement and  
 5 verification protocols of the Depart-  
 6 ment of Energy;

7 “(ii) include recommendations con-  
 8 cerning the amount of funds and the num-  
 9 ber of trained personnel necessary to gath-  
 10 er and use the metering information to  
 11 track and reduce energy use;

12 “(iii) establish 1 or more dates, not  
 13 later than 1 year after the date of issuance  
 14 of the guidelines, on which the requirement  
 15 specified in paragraph (1) shall take effect;  
 16 and

17 “(iv) establish exclusions from the re-  
 18 quirement specified in paragraph (1) based  
 19 on the de minimus quantity of energy use  
 20 of a Federal building, industrial process, or  
 21 structure.

22 “(f) USE OF INTERVAL DATA IN FEDERAL BUILD-  
 23 INGS.—

24 “(1) IN GENERAL.—Beginning not later than  
 25 January 1, 2003, each agency shall use, to the max-

1       imum extent practicable, for the purposes of efficient  
2       use of energy and reduction in the cost of electricity  
3       used in the Federal buildings of the agency, interval  
4       consumption data that measure on a real-time or  
5       daily basis consumption of electricity in the Federal  
6       buildings of the agency.

7           “(2) PLAN.—As soon as practicable after the  
8       date of enactment of this subsection, in a report  
9       submitted by the agency under section 548(a), each  
10      agency shall submit to the Secretary a plan describ-  
11      ing how the agency will implement the requirement  
12      of paragraph (1), including how the agency will des-  
13      ignate personnel primarily responsible for achieving  
14      the requirement.”.

15      (b) BUDGET SUBMISSIONS TO THE PRESIDENT.—  
16      Section 545 of the National Energy Conservation Policy  
17      Act (42 U.S.C. 8255) is amended—

18           (1) by inserting “(a) BUDGET SUBMISSION TO  
19      CONGRESS.—” before “The President”; and

20           (2) by adding at the end the following:

21      “(b) BUDGET SUBMISSIONS TO THE PRESIDENT.—  
22      The head of each agency shall submit to the President,  
23      as part of the budget request of the agency for each fiscal  
24      year, a statement of the amount of appropriations re-

1 requested in the budget for the electric and other energy  
 2 costs and compliance costs described in subsection (a).”.

3 (c) ENERGY AND WATER CONSERVATION INCENTIVE  
 4 PROGRAM.—Section 546 of the National Energy Con-  
 5 servation Policy Act (42 U.S.C. 8256) is amended by add-  
 6 ing at the end the following:

7 “(e) ENERGY AND WATER CONSERVATION INCEN-  
 8 TIVE PROGRAM.—

9 “(1) IN GENERAL.—In addition to the other in-  
 10 centive programs established under this section, the  
 11 Secretary shall establish an incentive program under  
 12 which, for any fiscal year, of the amounts made  
 13 available to each agency to pay the costs of pro-  
 14 viding energy and water for Federal buildings under  
 15 the jurisdiction of the agency, the agency may re-  
 16 tain, without fiscal year limitation, such amounts as  
 17 are determined under paragraph (2) to have been  
 18 saved because of energy and water management and  
 19 conservation projects carried out by the agency.

20 “(2) DETERMINATION OF RETAINED  
 21 AMOUNTS.—In cooperation with the Secretary of De-  
 22 fense and the Director of the Office of Management  
 23 and Budget, the Secretary shall issue guidelines and  
 24 establish methodologies for—

1           “(A) retention of amounts saved as de-  
2           scribed in paragraph (1) for a period ending  
3           not more than 3 years after the date of comple-  
4           tion of the project that resulted in the savings;

5           “(B) establishment of a baseline amount of  
6           energy and water expenditures, consisting of  
7           the amounts that would be expended on energy  
8           or water but for implementation of the project;  
9           and

10          “(C) use by agencies of the baseline  
11          amounts established under subparagraph (B) in  
12          submitting to the President budget requests for  
13          appropriated amounts equal to the amounts of  
14          savings that an agency is expected to be enti-  
15          tled to retain under paragraph (1).

16          “(3) USE OF RETAINED AMOUNTS.—Amounts  
17          retained under paragraph (1) may be used to carry  
18          out energy or water management and conservation  
19          projects, invest in renewable energy systems, and  
20          purchase electricity from renewable energy sources  
21          for use, at the Federal building at which the project  
22          that resulted in the savings was carried out.

23          “(4) ANNUAL REPORT ON USE OF AMOUNTS.—  
24          Each report submitted by an agency under section  
25          548(a) shall describe—

1           “(A)(i) the amounts retained under para-  
 2           graph (1) during the period covered by the re-  
 3           port; and

4           “(ii) the use of the amounts retained; and

5           “(B) if no amounts were retained under  
 6           paragraph (1), why no amounts were retained  
 7           and the plans of the agency for retaining such  
 8           amounts in the future.”.

9           (d) REPORTS.—Section 548 of the National Energy  
 10          Conservation Policy Act (42 U.S.C. 8258) is amended—

11           (1) in subsection (a)—

12           (A) in paragraph (1), by striking “and” at  
 13           the end;

14           (B) in paragraph (2), by striking the pe-  
 15           riod at the end and inserting “; and”; and

16           (C) by adding at the end the following:

17           “(3) the quantity of greenhouse gases emitted  
 18           by the Federal buildings of the agency during each  
 19           fiscal year, as measured by the agency in consulta-  
 20           tion with the Assistant Secretary for Federal Energy  
 21           Productivity of the Department of Energy.”;

22           (2) in subsection (b)(1)—

23           (A) in subparagraph (B), by striking  
 24           “and” at the end;

1 (B) in subparagraph (C), by striking the  
2 semicolon at the end and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(D) the quantity of greenhouse gases  
5 emitted by the Federal buildings of each agency  
6 during each fiscal year;”; and

7 (3) by adding at the end the following:

8 “(d) RECOMMENDATIONS ON MEANS OF ACCOUNT-  
9 ING FOR ENERGY USE.—

10 “(1) IN GENERAL.—The Secretary, in coopera-  
11 tion with the Administrator of the Energy Informa-  
12 tion Agency, the Administrator of General Services,  
13 and the Secretary of Defense, shall conduct a study  
14 to develop recommendations on the most accurate  
15 means of accounting for energy use in Federal facili-  
16 ties.

17 “(2) REQUIRED RECOMMENDATIONS.—Rec-  
18 ommendations shall include a recommendation con-  
19 cerning whether a uniform performance measure  
20 based on British thermal units per gross square foot  
21 is preferable to an agency-specific performance  
22 measure or any other performance-based metric.

23 “(3) REPORT TO CONGRESS.—Not later than 1  
24 year after the date of enactment of this subsection,



1 the Secretary shall submit to Congress a report on  
 2 the results of the study.”.

3 **SEC. 7. FEDERAL GOVERNMENT PROCUREMENT OF EN-**  
 4 **ERGY EFFICIENT PRODUCTS.**

5 (a) PROCUREMENT OF ENERGY EFFICIENT PROD-  
 6 UCTS.—

7 (1) REQUIREMENTS.—

8 (A) IN GENERAL.—Part 3 of title V of the  
 9 National Energy Conservation Policy Act is  
 10 amended—

11 (i) by redesignating section 551 (42  
 12 U.S.C. 8259) as section 554; and

13 (ii) by inserting after section 550 (42  
 14 U.S.C. 8258b) the following:

15 **“SEC. 551. FEDERAL GOVERNMENT PROCUREMENT OF EN-**  
 16 **ERGY EFFICIENT PRODUCTS.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) ENERGY STAR PRODUCT.—The term ‘En-  
 19 ergy Star product’ means a product that is rated for  
 20 energy efficiency under an Energy Star program.

21 “(2) ENERGY STAR PROGRAM.—The term ‘En-  
 22 ergy Star program’ means a program administered  
 23 by the Administrator of the Environmental Protec-  
 24 tion Agency that involves voluntary cooperation be-  
 25 tween that agency and an industry to enhance the

1 energy efficiency of the energy consuming products  
2 of the industry so as to reduce—

3 “(A) burdens on air conditioning and elec-  
4 trical systems of buildings that result from the  
5 use of the products in the buildings; and

6 “(B) air pollution caused by utility power  
7 generation.

8 “(3) EXECUTIVE AGENCY.—The term ‘executive  
9 agency’ has the meaning given the term in section  
10 4 of the Office of Federal Procurement Policy Act  
11 (41 U.S.C. 403).

12 “(4) FEMP DESIGNATED PRODUCT.—The term  
13 ‘FEMP designated product’ means a product that is  
14 designated under the Federal Energy Management  
15 Program of the Department of Energy as being  
16 among the highest 25 percent of equivalent products  
17 for energy efficiency.

18 “(b) PROCUREMENT OF ENERGY EFFICIENT PROD-  
19 UCTS.—

20 “(1) REQUIREMENT.—To meet the require-  
21 ments of an executive agency for an energy con-  
22 suming product, the head of the executive agency  
23 shall, except as provided in paragraph (2), procure—

24 “(A) an Energy Star product; or

1           “(B) if there is no Energy Star product  
 2           that meets the requirements of the executive  
 3           agency and that is reasonably available, a  
 4           FEMP designated product.

5           “(2) EXCEPTIONS.—The head of an executive  
 6           agency is not required to procure an Energy Star  
 7           product or FEMP designated product under para-  
 8           graph (1) if—

9           “(A) an Energy Star product or FEMP  
 10          designated product is not cost effective over the  
 11          life cycle of the product; or

12          “(B) no Energy Star product or FEMP  
 13          designated product is reasonably available that  
 14          meets the requirements of the executive agency.

15          “(3) PROCUREMENT PLANNING.—

16          “(A) REQUIREMENT.—The head of an ex-  
 17          ecutive agency shall incorporate into the speci-  
 18          fications for a procurement involving energy  
 19          consuming products and systems, and into the  
 20          factors for the evaluation of offers received for  
 21          the procurement, criteria for energy efficiency  
 22          that are consistent with—

23                 “(i) the criteria for energy efficiency  
 24                 used for rating products under the applica-  
 25                 ble Energy Star program; and

1 “(ii) the criteria used for designating  
 2 products under the Federal Energy Man-  
 3 agement Program of the Department of  
 4 Energy.

5 “(B) APPLICABILITY.—The requirement of  
 6 subparagraph (A) shall apply to—

7 “(i) a contract for new construction or  
 8 renovation of a building;

9 “(ii) a basic ordering agreement;

10 “(iii) a blanket purchasing agreement;

11 “(iv) a Government-wide procurement  
 12 contract; and

13 “(v) any other contract for a procure-  
 14 ment described in that subparagraph.

15 “(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN  
 16 FEDERAL CATALOGS.—

17 “(1) DEVELOPMENT.—The Administrator of  
 18 General Services and the Director of the Defense  
 19 Logistics Agency of the Department of Defense  
 20 shall—

21 “(A) develop, and revise if appropriate,  
 22 catalog listings of Energy Star products and  
 23 FEMP designated products; and

1           “(B) clearly identify in the listings the  
2           products that are Energy Star products and the  
3           products that are FEMP designated products.

4           “(2) AVAILABILITY OF LISTINGS.—The Admin-  
5           istrator and the Director shall make the listings  
6           available in printed and electronic formats.

7           “(d) GSA AND DLA INVENTORIES AND LISTINGS.—  
8           No energy consuming product may be made available to  
9           any executive agency from an inventory or listing of prod-  
10          ucts by the General Services Administration or the De-  
11          fense Logistics Agency unless—

12           “(1) the product is an Energy Star product;

13           “(2) the product is a FEMP designated product  
14          and no equivalent Energy Star product is reasonably  
15          available; or

16           “(3) no equivalent Energy Star product or  
17          FEMP designated product is reasonably available.

18          “(e) REGULATIONS.—The Secretary of Energy shall  
19          promulgate regulations to carry out this section, including  
20          policies and conditions for exercising authority under this  
21          section to procure energy consuming products other than  
22          Energy Star products and FEMP designated products.”.

23           (B) CONFORMING AMENDMENTS.—

24           (i) The table of contents in section  
25          1(b) of the National Energy Conservation

1 Policy Act (42 U.S.C. 8201 note) is  
 2 amended by striking the item relating to  
 3 section 551 and inserting the following:

“Sec. 551. Federal Government procurement of energy efficient products.

“Sec. 552. Federal Energy Bank.

“Sec. 553. Energy and water savings measures in congressional buildings.

“Sec. 554. Definitions.”.

4 (ii) Section 151(5) of the Energy Pol-  
 5 icy Act of 1992 (42 U.S.C. 8262(5)) is  
 6 amended by striking “section 551(4)” and  
 7 inserting “section 554(4)”.

8 (iii) Section 164(a) of the Energy Pol-  
 9 icy Act of 1992 (42 U.S.C. 8262h note;  
 10 Public Law 102–486) is amended by strik-  
 11 ing “section 551(5)” and inserting “sec-  
 12 tion 554(5)”.

13 (2) IMPLEMENTATION.—

14 (A) REGULATIONS.—Not later than 180  
 15 days after the effective date specified in sub-  
 16 section (d), the Secretary of Energy shall pro-  
 17 mulgate regulations to carry out section 551 of  
 18 the National Energy Conservation Policy Act  
 19 (as added by paragraph (1)(A)(ii)).

20 (B) DISPOSAL OF EXISTING INVEN-  
 21 TORIES.—An energy consuming product that,  
 22 on the effective date specified in subsection (d),  
 23 is in an inventory of products offered by the

1           General Services Administration or the Defense  
2           Logistics Agency may be made available to an  
3           executive agency out of that inventory without  
4           regard to section 551(d) of the National Energy  
5           Conservation Policy Act.

6                   (C) PROCUREMENT OF REPLACEMENT IN-  
7           VENTORY.—On and after the effective date  
8           specified in subsection (d), the Administrator of  
9           General Services and the Director of the De-  
10          fense Logistics Agency of the Department of  
11          Defense may not list or procure for an inven-  
12          tory of products offered by the General Services  
13          Administration or the Defense Logistics Agency  
14          an energy consuming product that, under sec-  
15          tion 551(d) of the National Energy Conserva-  
16          tion Policy Act, may not be made available to  
17          executive agencies out of that inventory.

18           (b) PROCUREMENT GUIDELINES.—The Secretary of  
19   Energy, in cooperation with the Secretary of Defense,  
20   shall issue guidelines that the Secretary of Defense may  
21   apply to the procurement of energy consuming products  
22   by the Department of Defense to ensure that, to the max-  
23   imum extent feasible consistent with the performance of  
24   the national security missions of the Department of De-

1 fense, the products selected for procurement are energy  
 2 efficient products.

3 (c) DESIGNATION OF ENERGY STAR PRODUCTS.—  
 4 The Administrator of the Environmental Protection Agen-  
 5 cy and the Secretary of Energy shall—

6 (1) expedite the process of designating products  
 7 as Energy Star products (as defined in section  
 8 551(a) of the National Energy Conservation Policy  
 9 Act (as added by subsection (a)(1)(A)(ii))); and  
 10 (2) merge the efficiency rating procedures used  
 11 by the Environmental Protection Agency and the  
 12 Department of Energy under the Energy Star pro-  
 13 grams (as defined in section 551(a) of that Act).

14 (d) EFFECTIVE DATE.—Subsection (a) and the  
 15 amendment made by that subsection take effect on the  
 16 date that is 180 days after the date of enactment of this  
 17 Act.

18 **SEC. 8. FEDERAL ENERGY BANK.**

19 Part 3 of title V of the National Energy Conservation  
 20 Policy Act is amended by inserting after section 551 (as  
 21 added by section 7(a)(1)(A)(ii)) the following:

22 **“SEC. 552. FEDERAL ENERGY BANK.**

23 “(a) DEFINITIONS.—In this section:

24 “(1) BANK.—The term ‘Bank’ means the Fed-  
 25 eral Energy Bank established by subsection (b).



1           “(2) ENERGY OR WATER EFFICIENCY  
2 PROJECT.—The term ‘energy or water efficiency  
3 project’ means a project that assists a Federal agen-  
4 cy in meeting or exceeding the energy or water effi-  
5 ciency requirements of—

6           “(A) this part;

7           “(B) title VIII;

8           “(C) subtitle F of title I of the Energy  
9 Policy Act of 1992 (42 U.S.C. 8262 et seq.); or

10          “(D) any applicable Executive order, in-  
11 cluding Executive Order No. 13123 (42 U.S.C.  
12 8251 note (June 3, 1999)).

13          “(3) FEDERAL AGENCY.—The term ‘Federal  
14 agency’ means—

15          “(A) an Executive agency (as defined in  
16 section 105 of title 5, United States Code);

17          “(B) the United States Postal Service;

18          “(C) the United States Patent and Trade-  
19 mark Office;

20          “(D) Congress and any other entity in the  
21 legislative branch; and

22          “(E) a Federal court and any other entity  
23 in the judicial branch.

24          “(4) UTILITY PAYMENT.—The term ‘utility  
25 payment’ means a payment made to supply elec-

1       tricity, natural gas, or any other form of energy to  
 2       provide the heating, ventilation, air conditioning,  
 3       lighting, or other energy needs of a facility of a Fed-  
 4       eral agency.

5       “(b) ESTABLISHMENT OF BANK.—

6               “(1) IN GENERAL.—There is established in the  
 7       Treasury of the United States a fund to be known  
 8       as the ‘Federal Energy Bank’, consisting of—

9               “(A) such amounts as are deposited in the  
 10       Bank under paragraph (2);

11              “(B) such amounts as are repaid to the  
 12       Bank under subsection (c)(2)(D); and

13              “(C) any interest earned on investment of  
 14       amounts in the Bank under paragraph (3).

15       “(2) DEPOSITS IN BANK.—

16              “(A) IN GENERAL.—Subject to the avail-  
 17       ability of appropriations and to subparagraph  
 18       (B), the Secretary of the Treasury shall deposit  
 19       in the Bank an amount equal to 2.5 percent for  
 20       fiscal year 2003 and 5 percent for each fiscal  
 21       year thereafter of the total amount of utility  
 22       payments made by all Federal agencies for the  
 23       preceding fiscal year.

24              “(B) MAXIMUM AMOUNT IN BANK.—De-  
 25       posits under subparagraph (A) shall cease be-

1           ginning with the fiscal year following the fiscal  
 2           year in which the amounts in the Bank (includ-  
 3           ing amounts on loan from the Bank) become  
 4           equal to or exceed \$1,000,000,000.

5           “(C) LIMITATION.—No funds made avail-  
 6           able to any Federal agency (other than to the  
 7           Department of the Treasury under subsection  
 8           (f)) shall be deposited in the Bank.

9           “(3) INVESTMENT OF AMOUNTS.—The Sec-  
 10          retary of the Treasury shall invest such portion of  
 11          the Bank as is not, in the judgment of the Sec-  
 12          retary, required to meet current withdrawals. Invest-  
 13          ments may be made only in interest-bearing obliga-  
 14          tions of the United States.

15          “(c) LOANS FROM THE BANK.—

16               “(1) IN GENERAL.—The Secretary of the  
 17          Treasury shall transfer from the Bank to the Sec-  
 18          retary such amounts as are appropriated to carry  
 19          out the loan program under paragraph (2).

20               “(2) LOAN PROGRAM.—

21                   “(A) ESTABLISHMENT.—

22                           “(i) IN GENERAL.—In accordance  
 23                           with subsection (d), the Secretary, in con-  
 24                           sultation with the Secretary of Defense,  
 25                           the Administrator of General Services, and

the Director of the Office of Management and Budget, shall establish a program to make loans of amounts in the Bank to any Federal agency that submits an application satisfactory to the Secretary in order to pay the costs of a project described in subparagraph (C).

“(ii) COMMENCEMENT OF OPERATIONS.—The Secretary may begin—

“(I) accepting applications for loans from the Bank in fiscal year 2002; and

“(II) making loans from the Bank in fiscal year 2003.

“(B) ENERGY SAVINGS PERFORMANCE CONTRACTING FUNDING.—The Secretary shall not make a loan from the Bank to a Federal agency for a project for which funding is available and is acceptable to the Federal agency under title VIII.

“(C) PURPOSES OF LOAN.—

“(i) IN GENERAL.—A loan from the Bank may be used to pay—

“(I) the costs of an energy or water efficiency project, or a renew-

1           able or alternative energy project, for  
2           a new or existing Federal building (in-  
3           cluding selection and design of the  
4           project);

5           “(II) the costs of an energy me-  
6           tering plan developed in accordance  
7           with the measurement and verification  
8           protocols of the Department of En-  
9           ergy, or energy metering equipment,  
10          for the purpose of—

11                   “(aa) a new or existing  
12                   building energy system; or

13                   “(bb) verification of the en-  
14                   ergy savings under an energy  
15                   savings performance contract  
16                   under title VIII; or

17          “(III) at the time of contracting,  
18          the costs of development or cofunding  
19          of an energy savings performance con-  
20          tract (including a utility energy serv-  
21          ice agreement) in order to shorten the  
22          payback period of the project that is  
23          the subject of the energy savings per-  
24          formance contract.

1           “(ii) LIMITATION.—A Federal agency  
 2           may use not more than 10 percent of the  
 3           amount of a loan under subclause (I) or  
 4           (II) of clause (i) to pay the costs of admin-  
 5           istration and proposal development (includ-  
 6           ing data collection and energy surveys).

7           “(iii) RENEWABLE AND ALTERNATIVE  
 8           ENERGY PROJECTS.—Not more than 25  
 9           percent of the amount on loan from the  
 10          Bank at any time may be loaned for re-  
 11          newable energy and alternative energy  
 12          projects (as defined by the Secretary in ac-  
 13          cordance with applicable law (including  
 14          Executive orders)).

15          “(D) REPAYMENTS.—

16               “(i) IN GENERAL.—Subject to clauses  
 17               (ii) through (iv), a Federal agency shall  
 18               repay to the Bank the principal amount of  
 19               a loan plus interest at a rate determined  
 20               by the President, in consultation with the  
 21               Secretary and the Secretary of the Treas-  
 22               ury.

23               “(ii) WAIVER OR REDUCTION OF IN-  
 24               TEREST.—The Secretary may waive or re-  
 25               duce the rate of interest required to be

1           paid under clause (i) if the Secretary de-  
 2           termines that payment of interest by a  
 3           Federal agency at the rate determined  
 4           under that clause is not required to fund  
 5           the operations of the Bank.

6           “(iii) DETERMINATION OF INTEREST  
 7           RATE.—The interest rate determined  
 8           under clause (i) shall be at a rate that is  
 9           sufficient to ensure that, beginning not  
 10          later than October 1, 2007, interest pay-  
 11          ments will be sufficient to fully fund the  
 12          operations of the Bank.

13          “(iv) INSUFFICIENCY OF APPROPRIA-  
 14          TIONS.—

15                 “(I) REQUEST FOR APPROPRIA-  
 16                 TIONS.—As part of the budget request  
 17                 of the Federal agency for each fiscal  
 18                 year, the head of each Federal agency  
 19                 shall submit to the President a re-  
 20                 quest for such amounts as are nec-  
 21                 essary to make such repayments as  
 22                 are expected to become due in the fis-  
 23                 cal year under this subparagraph.

24                 “(II) SUSPENSION OF REPAY-  
 25                 MENT REQUIREMENT.—If, for any fis-

1 cal year, sufficient appropriations are  
 2 not made available to a Federal agen-  
 3 cy to make repayments under this  
 4 subparagraph, the Bank shall suspend  
 5 the requirement of repayment under  
 6 this subparagraph until such appro-  
 7 priations are made available.

8 “(E) FEDERAL AGENCY ENERGY BUDG-  
 9 ETS.—Until a loan is repaid, a Federal agency  
 10 budget submitted by the President to Congress  
 11 for a fiscal year shall not be reduced by the  
 12 value of energy savings accrued as a result of  
 13 any energy conservation measure implemented  
 14 using amounts from the Bank.

15 “(F) NO RESCISSION OR REPROGRAM-  
 16 MING.—A Federal agency shall not rescind or  
 17 reprogram loan amounts made available from  
 18 the Bank except as permitted under guidelines  
 19 issued under subparagraph (G).

20 “(G) GUIDELINES.—The Secretary shall  
 21 issue guidelines for implementation of the loan  
 22 program under this paragraph, including selec-  
 23 tion criteria, maximum loan amounts, and loan  
 24 repayment terms.

25 “(d) SELECTION CRITERIA.—



1           “(1) IN GENERAL.—The Secretary shall estab-  
 2           lish criteria for the selection of projects to be award-  
 3           ed loans in accordance with paragraph (2).

4           “(2) SELECTION CRITERIA.—

5                 “(A) IN GENERAL.—The Secretary may  
 6           make loans from the Bank only for a project  
 7           that—

8                         “(i) is technically feasible;

9                         “(ii) is determined to be cost-effective  
 10           using life cycle cost methods established by  
 11           the Secretary by regulation;

12                        “(iii) includes a measurement and  
 13           management component, based on the  
 14           measurement and verification protocols of  
 15           the Department of Energy, to—

16                                 “(I) commission energy savings  
 17           for new and existing Federal facilities;

18                                “(II) monitor and improve energy  
 19           efficiency management at existing  
 20           Federal facilities; and

21                                “(III) verify the energy savings  
 22           under an energy savings performance  
 23           contract under title VIII; and

24                                “(iv)(I) in the case of renewable en-  
 25           ergy or alternative energy project, has a

1                   simple payback period of not more than 15  
2                   years; and

3                   “(II) in the case of any other project,  
4                   has a simple payback period of not more  
5                   than 10 years.

6                   “(B) PRIORITY.—In selecting projects, the  
7                   Secretary shall give priority to projects that—

8                   “(i) are a component of a comprehen-  
9                   sive energy management project for a Fed-  
10                  eral facility; and

11                  “(ii) are designed to significantly re-  
12                  duce the energy use of the Federal facility.

13                  “(e) REPORTS AND AUDITS.—

14                  “(1) REPORTS TO THE SECRETARY.—Not later  
15                  than 1 year after the completion of installation of a  
16                  project that has a cost of more than \$1,000,000,  
17                  and annually thereafter, a Federal agency shall sub-  
18                  mit to the Secretary a report that—

19                  “(A) states whether the project meets or  
20                  fails to meet the energy savings projections for  
21                  the project; and

22                  “(B) for each project that fails to meet the  
23                  energy savings projections, states the reasons  
24                  for the failure and describes proposed remedies.

1           “(2) AUDITS.—The Secretary may audit, or re-  
 2       quire a Federal agency that receives a loan from the  
 3       Bank to audit, any project financed with amounts  
 4       from the Bank to assess the performance of the  
 5       project.

6           “(3) REPORTS TO CONGRESS.—At the end of  
 7       each fiscal year, the Secretary shall submit to the  
 8       Committee on Energy and Commerce of the House  
 9       of Representatives and the Committee on Energy  
 10      and Natural Resources of the Senate a report on the  
 11      operations of the Bank, including a statement of—

12               “(A) the total receipts by the Bank;

13               “(B) the total amount of loans from the  
 14      Bank to each Federal agency; and

15               “(C) the estimated cost and energy savings  
 16      resulting from projects funded with loans from  
 17      the Bank.

18           “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
 19      are authorized to be appropriated to the Department of  
 20      the Treasury such sums as are necessary to fund—

21               “(1) deposits required under subsection (b)(2);

22      and

23               “(2) the costs to the Treasury associated with  
 24      the loan program established under subsection

1 (c)(2), as determined in accordance with guidelines  
 2 issued by the Office of Management and Budget.”.

3 **SEC. 9. ENERGY AND WATER SAVING MEASURES IN CON-**  
 4 **GRESSIONAL BUILDINGS.**

5 (a) IN GENERAL.—Part 3 of title V of the National  
 6 Energy Conservation Policy Act is amended by inserting  
 7 after section 552 (as added by section 8) the following:

8 **“SEC. 553. ENERGY AND WATER SAVINGS MEASURES IN**  
 9 **CONGRESSIONAL BUILDINGS.**

10 “(a) IN GENERAL.—The Architect of the Capitol—

11 “(1) shall develop and implement a cost-effec-  
 12 tive energy conservation strategy for all facilities ad-  
 13 ministered by Congress (referred to in this section  
 14 as ‘congressional buildings’) to meet the mandatory  
 15 standards for Federal buildings established under  
 16 title III of the Energy Conservation and Production  
 17 Act (42 U.S.C. 6831 et seq.);

18 “(2) shall submit to Congress, not later than  
 19 120 days after the date of enactment of this section,  
 20 a revised comprehensive energy conservation and  
 21 management plan that includes life cycle cost meth-  
 22 ods to determine the cost-effectiveness of proposed  
 23 energy efficiency projects;

1           “(3) shall submit to Congress annually a report  
2           on congressional energy management and conserva-  
3           tion programs that describes in detail—

4                   “(A) energy expenditures and cost esti-  
5                   mates for each facility;

6                   “(B) energy management and conservation  
7                   projects; and

8                   “(C) future priorities to ensure compliance  
9                   with this section;

10           “(4) shall perform energy surveys of all con-  
11           gressional buildings and update the surveys as nec-  
12           essary;

13           “(5) shall use the surveys to determine the cost  
14           and payback period of energy and water conserva-  
15           tion measures likely to achieve the energy consump-  
16           tion levels specified in the strategy developed under  
17           paragraph (1);

18           “(6) shall install energy and water conservation  
19           measures that will achieve those levels through life  
20           cycle cost methods and procedures included in the  
21           plan submitted under paragraph (2);

22           “(7) may contract with nongovernmental enti-  
23           ties and use private sector capital to finance energy  
24           conservation projects and achieve energy consump-  
25           tion targets;

1           “(8) may develop innovative contracting meth-  
2           ods that will attract private sector funding for the  
3           installation of energy efficient and renewable energy  
4           technology to meet the requirements of this section,  
5           such as energy savings performance contracts de-  
6           scribed in title VIII;

7           “(9) may participate in the Financing Renew-  
8           able Energy and Efficiency (FREE) Savings con-  
9           tracts program for Federal Government facilities es-  
10          tablished by the Department of Energy;

11          “(10) not later than 100 days after the date of  
12          enactment of this section, shall submit to Congress  
13          the results of a study of the installation of sub-  
14          metering in congressional buildings;

15          “(11) shall produce information packages and  
16          ‘how-to’ guides for each Member and employing au-  
17          thority of Congress that detail simple, cost-effective  
18          methods to save energy and taxpayer dollars;

19          “(12) shall ensure that state-of-the-art energy  
20          efficiency technologies are used in the construction  
21          of the Visitor Center; and

22          “(13) shall include in the Visitor Center an ex-  
23          hibit on the energy efficiency measures used in con-  
24          gressional buildings.

1       “(b) ENERGY AND WATER CONSERVATION INCEN-  
2 TIVE.—

3               “(1) IN GENERAL.—For any fiscal year, of the  
4 amounts made available to the Architect of the Cap-  
5 itol to pay the costs of providing energy and water  
6 for congressional buildings, the Architect may re-  
7 tain, without fiscal year limitation, such amounts as  
8 the Architect determines were not expended because  
9 of energy and water management and conservation  
10 projects.

11              “(2) USE OF RETAINED AMOUNTS.—Amounts  
12 retained under paragraph (1) may be used to carry  
13 out energy and water management and conservation  
14 projects.

15              “(3) ANNUAL REPORT ON USE OF AMOUNTS.—  
16 As part of each annual report under subsection  
17 (a)(3), the Architect of the Capitol shall submit to  
18 Congress a report on the amounts retained under  
19 paragraph (1) and the use of the amounts.”.

20       (b) REPEAL.—Section 310 of the Legislative Branch  
21 Appropriations Act, 1999 (40 U.S.C. 166i), is repealed.

22 **SEC. 10. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

23       (a) COST SAVINGS FROM REPLACEMENT FACILI-  
24 TIES.—Section 801(a) of the National Energy Conserva-

1 tion Policy Act (42 U.S.C. 8287(a)) is amended by adding  
 2 at the end the following:

3 “(3) COST SAVINGS FROM REPLACEMENT FA-  
 4 CILITIES.—

5 “(A) IN GENERAL.—In the case of an en-  
 6 ergy savings performance contract that provides  
 7 for energy savings through the construction and  
 8 operation of 1 or more buildings or other facili-  
 9 ties to replace 1 or more existing buildings or  
 10 other facilities, benefits ancillary to the purpose  
 11 of achieving energy savings under the contract  
 12 may include, for the purpose of paragraph (1),  
 13 savings resulting from reduced costs of oper-  
 14 ation and maintenance at the replacement  
 15 buildings or other facilities as compared with  
 16 the costs of operation and maintenance at the  
 17 buildings or other facilities being replaced.

18 “(B) DETERMINATION OF PAYMENTS.—  
 19 Notwithstanding paragraph (2)(B), the aggre-  
 20 gate annual payments by a Federal agency  
 21 under an energy savings performance contract  
 22 described in subparagraph (A) may take into  
 23 account (through the procedures developed  
 24 under this section) savings resulting from re-



1           duced costs of operation and maintenance as  
2           described in subparagraph (A).”.

3           (b) REPEAL OF SUNSET.—Section 801 of the Na-  
4           tional Energy Conservation Policy Act (42 U.S.C. 8287)  
5           is amended by striking subsection (c).

6           (c) DEFINITIONS.—The National Energy Conserva-  
7           tion Policy Act is amended by striking section 804 (42  
8           U.S.C. 8287c) and inserting the following:

9           **“SEC. 804. DEFINITIONS.**

10          **“In this title:**

11               “(1) ENERGY CONSERVATION MEASURE.—The  
12               term ‘energy conservation measure’ has the meaning  
13               given the term in section 554.

14               “(2) ENERGY SAVING.—The term ‘energy sav-  
15               ing’ means a reduction, from a baseline cost estab-  
16               lished through a methodology set forth in an energy  
17               savings performance contract, in the cost of energy  
18               or water used in—

19                       “(A) 1 or more existing federally owned  
20                       buildings or other federally owned facilities,  
21                       that results from—

22                               “(i) the lease or purchase of operating  
23                               equipment, an improvement, altered oper-  
24                               ation or maintenance, or a technical serv-  
25                               ice;

1 “(ii) increased efficiency in the use of  
 2 existing energy sources by cogeneration or  
 3 heat recovery, excluding any cogeneration  
 4 process for a building that is not a feder-  
 5 ally owned building or a facility that is not  
 6 federally owned facility; or

7 “(iii) increased efficiency in the use of  
 8 existing water sources or treatment of  
 9 wastewater or stormwater; or

10 “(B) a replacement facility under section  
 11 801(a)(3).

12 “(3) ENERGY SAVINGS PERFORMANCE CON-  
 13 TRACT.—The term ‘energy savings performance con-  
 14 tract’ means a contract that provides for—

15 “(A) the performance of services for the  
 16 design, acquisition, installation, testing, oper-  
 17 ation, and, where appropriate, maintenance and  
 18 repair, of an energy conservation measure or  
 19 water conservation measure (or series of such  
 20 measures) at 1 or more locations; or

21 “(B) energy savings through the construc-  
 22 tion and operation of 1 or more buildings or  
 23 other facilities to replace 1 or more existing  
 24 buildings or other facilities.

1           “(4) FEDERAL AGENCY.—The term ‘Federal  
2           agency’ means each authority of the United States  
3           Government, regardless of whether the authority is  
4           within or subject to review by another agency.

5           “(5) WATER CONSERVATION MEASURE.—The  
6           term ‘water conservation measure’ means a con-  
7           servation measure that—

8                   “(A) improves the efficiency of use of  
9           water;

10                   “(B) is cost-effective over the life cycle of  
11           the water conservation measure; and

12                   “(C) involves water conservation, water re-  
13           cycling or reuse, more efficient treatment of  
14           wastewater or stormwater, an improvement in  
15           operation or maintenance efficiency, a retrofit  
16           activity, or any other related activity, that is  
17           carried out at a building or other facility that  
18           is not a Federal hydroelectric facility.”.

19 **SEC. 11. FEDERAL FLEET FUEL ECONOMY AND USE OF AL-**  
20 **TERNATIVE FUELS.**

21           (a) IN GENERAL.—Section 303 of the Energy Policy  
22   Act of 1992 (42 U.S.C. 13212) is amended—

23                   (1) by redesignating subsection (f) as sub-  
24           section (g); and

1           (2) by inserting after subsection (e) the fol-  
 2       lowing:

3       “(f) FEDERAL FLEET FUEL ECONOMY AND USE OF  
 4       ALTERNATIVE FUELS.—

5           “(1) DEFINITIONS.—

6               “(A) AVERAGE FUEL ECONOMY.—The  
 7       term ‘average fuel economy’ has the meaning  
 8       given the term in section 32901 of title 49,  
 9       United States Code.

10           “(B) COVERED VEHICLE.—

11               “(i) IN GENERAL.—The term ‘covered  
 12       vehicle’ means a passenger automobile or  
 13       light duty motor vehicle.

14               “(ii) EXCLUSIONS.—The term ‘cov-  
 15       ered vehicle’ does not include—

16                   “(I) a military tactical vehicle of  
 17               the Armed Forces; or

18                   “(II) any law enforcement, emer-  
 19               gency, or other vehicle class or type  
 20               determined to be excluded under  
 21               guidelines issued by the Secretary of  
 22               Energy under paragraph (6).

23           “(C) FEDERAL AGENCY.—The term ‘Fed-  
 24       eral agency’ means an Executive agency (as de-  
 25       fined in section 105 of title 5, United States

1 Code) (including each military department (as  
 2 specified in section 102 of that title)) that oper-  
 3 ates 20 or more motor vehicles in the United  
 4 States.

5 “(D) PASSENGER AUTOMOBILE.—The  
 6 term ‘passenger automobile’ has the meaning  
 7 given the term in section 32901 of title 49,  
 8 United States Code.

9 “(2) MINIMUM AVERAGE FUEL ECONOMY.—In  
 10 fiscal year 2005 and each fiscal year thereafter, the  
 11 average fuel economy of the covered vehicles ac-  
 12 quired by each Federal agency shall be not less than  
 13 3 miles per gallon greater than the average fuel  
 14 economy of the covered vehicles acquired by the Fed-  
 15 eral agency in fiscal year 2000.

16 “(3) USE OF ALTERNATIVE FUELS.—

17 “(A) IN GENERAL.—Subject to subpara-  
 18 graph (B), in fiscal year 2005 and each fiscal  
 19 year thereafter, each Federal agency shall use  
 20 alternative fuels for at least 50 percent of the  
 21 total annual volume of motor fuel used by the  
 22 Federal agency to operate covered vehicles.

23 “(B) INCLUSION OF MOTOR FUEL PUR-  
 24 CHASED BY STATE AND LOCAL GOVERN-  
 25 MENTS.—Not more than 25 percent of the

1 motor fuel purchased by State and local govern-  
2 ments at federally-owned refueling facilities  
3 may be included by a Federal agency in meet-  
4 ing the requirement of subparagraph (A).

5 “(4) IMPLEMENTATION PLAN.—Not later than  
6 1 year after the date of enactment of this para-  
7 graph, each Federal agency shall develop and submit  
8 to the President and Congress an implementation  
9 plan for meeting the requirements of this subsection  
10 that takes into account the fleet configuration and  
11 fleet requirements of the Federal agency.

12 “(5) ANNUAL REPORT.—

13 “(A) IN GENERAL.—Each Federal agency  
14 shall submit to the President and Congress an  
15 annual report on the progress of the Federal  
16 agency in meeting the requirements of this sub-  
17 section.

18 “(B) GUIDELINES.—The Secretary of En-  
19 ergy, acting through the Assistant Secretary for  
20 Federal Energy Productivity and in consulta-  
21 tion with the Administrator of the Energy In-  
22 formation Administration, shall issue guidelines  
23 for the preparation by Federal agencies of re-  
24 ports under paragraph (1), including guidelines  
25 concerning—

1 “(i) methods for measurement of av-  
 2 erage fuel economy; and

3 “(ii) the collection and annual report-  
 4 ing of data to demonstrate compliance with  
 5 this subsection.

6 “(6) GUIDELINES CONCERNING EXCLUSION OF  
 7 CERTAIN VEHICLES.—Not later than 1 year after  
 8 the date of enactment of this paragraph, the Sec-  
 9 retary of Energy, in consultation with the Assistant  
 10 Secretary for Federal Energy Productivity, shall  
 11 issue guidelines for Federal agencies to use in the  
 12 determination of vehicles to be excluded under para-  
 13 graph (1)(B)(ii).”.

14 (b) ALTERNATIVE FUEL USE BY LIGHT DUTY FED-  
 15 ERAL VEHICLES.—Section 400AA of the Energy Policy  
 16 and Conservation Act (42 U.S.C. 6374) is amended—

17 (1) in subsection (a)(3)(E)—

18 (A) by striking “(E) Dual” and inserting  
 19 the following:

20 “(E) OPERATION OF DUAL FUELED VEHI-  
 21 CLES.—

22 “(i) IN GENERAL.—Subject to clause  
 23 (ii), dual”; and

24 (B) by adding at the end the following:

1                   “(ii) MINIMUM ALTERNATIVE FUEL  
2                   USE.—For fiscal year 2005 and each fiscal  
3                   year thereafter, not less than 50 percent of  
4                   the total annual volume of fuel used to op-  
5                   erate dual fueled vehicles acquired pursu-  
6                   ant to this section shall consist of alter-  
7                   native fuels.”; and

8                   (2) in subsection (g)(4)(B), by inserting before  
9                   the semicolon at the end the following: “, including  
10                  any 3-wheeled enclosed electric vehicle that has a ve-  
11                  hicle identification number”.

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